

## EXHIBIT 10

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
STAR AUTO SALES OF BAYSIDE, INC.  
(d/b/a STAR TOYOTA OF BAYSIDE),  
STAR AUTO SALES OF QUEENS, LLC  
(d/b/a STAR SUBARU), STAR HYUNDAI  
LLC (d/b/a STAR HYUNDAI), STAR  
NISSAN, INC. (d/b/a STAR NISSAN),  
METRO CHRYSLER PLYMOUTH INC. (d/b/a  
STAR CHRYSLER JEEP DODGE) STAR AUTO  
SALES OF QUEENS COUNTY LLC (d/b/a  
STAR FIAT) and STAR AUTO SALES OF  
QUEENS VILLAGE LLC (d/b/a STAR  
MITSUBISHI),

Plaintiffs,

-against-

VOYNOW, BAYARD, WHYTE and COMPANY  
LLP, HUGH WHYTE, and RANDALL  
FRANZEN,

Case No.  
18-cv-05775  
(ERK) (TAM)

Defendants.

-----x

February 13, 2023  
10:24 a.m.

Videotaped Deposition of ROBERT KIRKHOPE,  
taken by Plaintiffs, pursuant to Subpoena, held  
at the offices of Milman Labuda Law Group PLLC,  
3000 Marcus Avenue, Suite 3W8, Lake Success, New  
York, before Lisa Hiesiger, a Shorthand Reporter  
and Notary Public within and for the State of  
New York.

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Robert Kirkhope --- February 13, 2023

2

A P P E A R A N C E S :

MILMAN LABUDA LAW GROUP PLLC  
Attorneys for Plaintiffs  
3000 Marcus Avenue, Suite 3W8  
Lake Success, New York 11042

By: JOSEPH LABUDA, ESQ.  
JEREMY M. KOUFAKIS, ESQ.  
jeremy@mllaborlaw.com

MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN P.C.  
Attorneys for Defendants  
620 Freedom Business Center, Suite 405  
King of Prussia, Pennsylvania 19406

By: MAUREEN P. FITZGERALD, ESQ.  
mpfitzgerald@mdwgcg.com

Also Present:

JACQUELINE CUTILLO  
ROBERT SEIBEL  
RANDY FRANZEN  
HUGH WHYTE  
STEVEN RAMBAM (Via teleconference)  
ANDREW GEDACHT, Videographer

~oOo~

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Robert Kirkhope --- February 13, 2023

3

1  
2 IT IS HEREBY STIPULATED AND AGREED, by and  
3 among counsel for the respective parties hereto, that  
4 the filing, sealing and certification of the within  
5 deposition shall be and the same are hereby waived;

6 IT IS FURTHER STIPULATED AND AGREED that all  
7 objections, except as to form of the question, shall  
8 be reserved to the time of the trial;

9 IT IS FURTHER STIPULATED AND AGREED that the  
10 within deposition may be signed before any Notary  
11 Public with the same force and effect as if signed and  
12 sworn to before the Court.

13 ~oOo~  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Robert Kirkhope --- February 13, 2023

4

Kirkhope

THE VIDEOGRAPHER: The date is  
February 13th, 2023, the time is 10:24  
a.m. We are located at the offices of  
Milman Labuda Law Group PLLC, 3000 Marcus  
Avenue, Lake Success, New York. We are  
taking the deposition of Robert Kirkhope  
in the matter of Star Auto Sales of  
Bayside Inc. et al. v Voynow, Bayard,  
Whyte and Company, et al. pending in the  
U.S. District Court in the Eastern  
District of New York, case number  
18-cv-05775(ERK) (TAM) .

My name is Andrew Gedacht, I'm the  
video specialist with the Little Reporting  
Company, and the court reporter is Lisa  
Hiesiger, also from Little Reporting  
Company.

At this time I would ask the  
attorneys to please introduce themselves  
for the video record, please state your  
name, the firm with which you are  
affiliated and whom you represent, after  
which the court reporter will swear in the  
witness.

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Robert Kirkhope --- February 13, 2023

5

1 Kirkhope

2 MR. LABUDA: Good morning, for the  
3 plaintiff Joe Labuda, Milman Labuda Law  
4 Group. We also have Jeremy Koufakis,  
5 Milman Labuda, and Jackie Cutillo  
6 represented from Star.

7 MS. FITZGERALD: Good morning,  
8 Maureen Fitzgerald from Marshall Dennehey  
9 representing all the defendants.

10 R O B E R T K I R K H O P E, having been first  
11 duly sworn by Lisa Hiesiger, a Notary Public, was  
12 called as a witness and testified as follows:

13 EXAMINATION BY MR. LABUDA:

14 Q. Good morning, Mr. Kirkhope. My name  
15 is Joe Labuda, I think we've met before.

16 A. Yep.

17 Q. I'm the attorney for the plaintiff or  
18 plaintiffs Star, various entities, Star Nissan,  
19 Toyota, et cetera. And I'm going to be referring  
20 to the various Star entities simply as Star  
21 unless I say, you know, specifically Star Toyota,  
22 Star Nissan, et cetera. Do you understand?

23 A. Yep.

24 Q. And I'll be referring to Voynow,  
25 Bayard, Whyte and Company LLP simply as Voynow.

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Robert Kirkhope --- February 13, 2023

171

1 Kirkhope

2 records?

3 MS. FITZGERALD: Object to form.

4 A. I'm not sure I follow, what do you  
5 mean?

6 Q. We talked generally about how  
7 sometimes you would print out schedules,  
8 sometimes you would ask the client to print out  
9 schedules and you'd see stuff on the screen  
10 sometimes. I'm curious, was that the same method  
11 that was used at Star or was it a different  
12 method?

13 A. At Star --

14 MS. FITZGERALD: Object to form.

15 A. Probably because we only had, we  
16 didn't have a dedicated computer to us, which is  
17 not uncommon. I was probably the low man that  
18 was told to go print out all the schedules for  
19 all the stores. So I'm assuming I had to do it a  
20 couple of times in my career where I was told to  
21 print out all the schedules and all the balance  
22 sheets for all the stores, and then I would  
23 pretty much give them to whoever was handling  
24 that store.

25 Q. So where would you actually do that,

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Robert Kirkhope --- February 13, 2023

172

1 Kirkhope

2 would you have to take over an employee's  
3 Reynolds computer?

4 A. I wouldn't take over their Reynolds  
5 but there would have to be an open computer. So  
6 maybe somebody didn't come in until 10:30, they  
7 would tell me that computer is good to use to  
8 print out our stuff, but that person is coming in  
9 at 10:30 so you'll have to move.

10 Q. Would you log in under Voynow or a  
11 Star employee or something else?

12 A. No, we had our own log-in at Voynow,  
13 so we went in through our log-in.

14 Q. You had indicated before that it was  
15 your understanding that you may not have full  
16 access to Star's full Reynolds system, is that  
17 right?

18 A. That's right.

19 Q. Do you know what restrictions were  
20 placed on your Reynolds account like the Voynow  
21 Reynolds account at Star?

22 A. Again, me personally, I would only  
23 use about three executables or four. So I don't  
24 even know if I had access to stuff or not, I  
25 didn't try.